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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,036	02/22/2002	Wesley Eugene Kendall		8510

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EXAMINER

MOONEYHAM, JANICE A

ART UNIT PAPER NUMBER

3629

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/081,036

Applicant(s)

KENDALL, WESLEY EUGENE

Examiner

Jan Mooneyham

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*mw*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 6-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This is response to the applicant's amendment filed on February 19, 2004, wherein:  
Claims 6-14 are currently pending,  
Claims 1-5 have been canceled,  
Claims 6-14 are newly added.

#### ***Response to Amendment***

2. The proposed reply filed on February 19, 2004 is unsigned. The applicant is reminded to sign any future amendments.

3. The applicant has amended the title of the invention and this amendment is acceptable.

#### ***Specification***

4. The amendment filed February 19, 2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure and into the abstract. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. Applicant is required to cancel the new matter in the reply to this Office Action.

#### ***Drawing***

5. The applicant has filed many versions of the specification and the drawings. Any amendment that was filed that introduces new matter into the disclosure is objected to under 35 U.S.C. 132. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Some of the new matter introduced in the specification and there still have been

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numerous drawings added. The examiner still is not sure which of the drawings that the applicant is claiming as his original disclosure.

Applicant is required to cancel the new matter in the reply to this Office Action.

### *Abstract*

The applicant has amended the abstract. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of **50 to 150 words**. **It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited.** The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

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The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Appropriate correction as to the abstract is required.

### ***Claim Objections***

6. Claims 6-14 are objected to because of the following informalities: The claims are not written in proper format. Applicant should refer to MPEP Section 608.01(m). Appropriate correction is required.

***MPEP 608.01(m)*** states:

The claim or claims must commence on a separate sheet and should appear after the detailed description of the invention. While there is no set statutory form for claims, the present Office practice is to insist that each claim must be the object of a sentence starting with "I (or we) claim," "The invention claimed is" (or the equivalent). If, at the time of allowance, the quoted terminology is not present, it is inserted by the Technology Center (TC) technical support staff. Each claim begins with a capital letter and ends with a period. Periods may not be used elsewhere in the claims except for abbreviations. See *Fressola v. Manbeck*, 36 USPQ2d 1211 (D.D.C. 1995). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation, 37 CFR 1.75(i).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. **Claims 6-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.** The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. **Claims 6-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** The examiner is unclear as whether the applicant is claiming a method or apparatus and what method or apparatus the applicant is claiming.

9. **Claims 6-14 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements or essential method steps, such omission amounting to a gap between the elements or the steps. See MPEP § 2172.01.** The applicant has failed to provide a detailed description of the invention in that applicant has failed to indicate what the essential elements or steps are in the invention

**The Examiner finds that because claim(s) 6-12 are replete with 35 U.S.C. 112 2<sup>nd</sup> paragraph indefiniteness rejections, it is difficult if not impossible to completely construe claim scope at this time. However, in accordance with MPEP §2173.06 and the USPTO's policy of providing art rejections even though the claim(s) contain 35 U.S.C. 112 2<sup>nd</sup> paragraph rejections, the claims are construed and the art is applied *as much as practically possible*. As noted below, Applicant(s) are invited to contact the Examiner if additional assistance is needed.**

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**10. Claims 6-14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claims 6-14 only recites an abstract idea. The recited steps of identifying, collecting information, and linking to reservations do not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. These steps only constitute abstract ideas.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**11. Claims 6-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Lane (US Patent 5,623,552).**

Lane discloses a method and apparatus for identification (col. 2, lines 11-13), with information on the card (col. 2, lines 11-15), which captures fingerprints (col. 2, lines 16-43, Fig. 14), with links to an authenticator for verification and validation (col. 2, lines 29-36, col. 5, line 62 thru col. 6, line 12). which has the ability to challenge the validity (Fig. 14).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**12. Claims 6-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Wu (US 2003/0158762).**



Wu discloses an identification system and method which comprises a smart card that uses biometric information for airline passenger security linked to FBI and CIA computer systems (page 1 {0008, 0010, 0011, 0012, 0013}).

**13. Claims 6-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Seifert (US 2003/0112120).**

Seifert discloses an biometric identification system and method [page 2 [0014-17] on a card [0018]for use in security linked to credit cards and the government (page 4 [0028].

**14. Claims 6-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Cockerham (US 2003/0128099).**

Cockerham discloses an electronic read pass card with biometric information (Fig. 4) connected to law enforcement databases (Fig. 5) to provide security for airports.

**15. Claims 6-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Kelly et. al. (US 2003/0127511)**

Kelly discloses a method and apparatus for providing heightened airport security which provides an information card (Fig. 5) with fingerprints (Fig. 5) which is adapted to communicate with government databases (page 1 [0007]).

**16. Claims 6-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Sehr (US Patent 6,386,451).**

Sehr discloses a travel system and method which provides biometric identification of the cardholders and other travel related information which can be verified and validated and which provides information as to travel rights, service entitlement, and admission to transportation means (abstract , col. 3, lines 60-64, col. 4, line 30 thru col. 5, line 13)

***Response to Arguments***

17. Applicant provided no response to arguments in the February 19, 2004 amendment.

Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

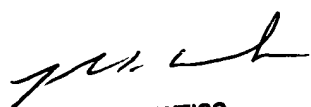
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jan Mooneyham whose telephone number is (703) 305-8554. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JM

  
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